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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/034,858
Filing Date: December 27, 2001
Appellant(s): BARRITZ ET AL.

Max Moskowitz
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed January 19, 2007 appealing from the Office action (Final) mailed on August 23, 2006.

1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The following is a listing of the evidence relied upon in the rejections of claims under appeal:

Suchter, U.S. Patent No. 6,675,161 (hereinafter Suchter) and Chen et al., U.S. Patent No. 6,728,752 (hereinafter Chen).

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7, 14-15, 17, 19-25, 27, 30, and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Suchter (U.S. Patent No. 6,675,161 B1).

As to claim 1, Suchter discloses an interactive system for enhancing the searchability of data, the system comprising:

a categorization system that associates search terms defining categories **or** attributes with items to be found (See column 6, lines 61-67);

a communication system that communicates with the categorization system and with a store of information from which information is to be selected based on the search terms (See column 5, lines 17-34); and

a cooperative facility associated with the categorization system that enables users to interactively and at least partially automatically, modify **or** supplement the search terms initially assigned to the items to be found by the categorization system (See column 8, lines 14-30).

As to claim 2, Suchter discloses in which the store of information is accessible via the Internet (See Figure 1A, 104, shows "network" deemed to read on "Internet").

As to claims 3, and 19, Schuter discloses in which the categorization system enables assigning search terms that are hierarchical and enables assigning search terms that are based on items to be found (See column 7, lines 8-23).

As to claims 4, and 20, Suchter discloses in which the cooperative facility is accessible to the users and the users (See column 14, lines 25-30, also see column 14, lines 62-65).

As to claims 5, and 21, Suchter discloses in which the search terms comprise categories of items to be found that are arranged hierarchically and attributes of items defined descriptively and the categorization and attribute information is stored in a categorization and attribute database (See column 10, lines 65-67, also see Figure 3A, shows hierarchical arrangement).

As to claims 6, and 22, Suchter discloses including a dynamic add category facility that dynamically enables a lister of items in the store of information to use existing categorization and attribute data and to add additional categories via the cooperative facility (See column 14, lines 25-30, also see column 14, lines 62-65).

As to claims 7, and 23, Schuter discloses including a dynamic add attributes facility that dynamically enables searchers of items in the store of information to use existing categorization

and attribute data and to add additional attributes via the cooperative facility (See column 10, lines 65-67, also see column 14, lines 20-30).

As to claims 14, and 24, Suchter discloses including a grouping facility that groups together those attributes that are related to one another (See column 8, lines 22-37, also see column 9, lines 420, wherein "class of content" is stored under similar attributes).

As to claims 15, and 25, Suchter discloses including an attribute facility that enable searchers to specify attribute selections by entry of a plurality of terms connected by Boolean expressions (See column 19, lines 20-31).

As to claims 17, and 27, Suchter discloses in which the cooperative facility includes a subsidiary facility that removes redundancies in categorization and attribute search terms (See column 16, lines 10-20, wherein "duplicate and redundancies" are deemed to be removed as a result of "matching").

As to claim 30, Suchter discloses a computer-implemented method of searching for data items in a data store, the method comprising the steps of:

operating a computer-based communication system that effects communications between a plurality of data searchers and the data store containing the data items (See Figure 1B, shows computer based communication network);

operating a search engine that enables the data searchers to enter initial key words describing data items to be found (See column 5, lines 17-34);

receiving over the computer-based communication system selected data items that are responsive to the initial key words in a given order of items, organized into successive viewable pages (See column 9, lines 62-67, wherein "initial keywords" reads on "category" headings, and wherein "viewable pages" reads on "window" having different tabs leading to successive pages);

initiating a manual review of the received selected data items (See column 10, lines 15-24); and

operating on a computer device an automatic clustering tool that is responsive to the items manually perused by the data searcher, including items not reviewed by the data searcher, the automatic clustering tool responding to the user's action by interactively creating categorization criteria by which at least a portion of the received selected data items are reordered or filtered **for** being viewed by the data searcher, by which a further search is performable with results that are based thereon (See column 7, lines 15-23, also see column 10, lines 65-67, and see column 14, lines 24-30).

As to claim 32, Suchter discloses in which the automatic clustering tool constantly revises the categorization criteria in response to continuous reviewing of the selected data items by the data searchers (See column 11, lines 49-64, and see column 12, lines 3-11, wherein "constantly revises" is deemed to be "automatic clustering" function to update).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 29, 31, 33, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suchter (U.S. Patent No. 6,675,161 B1) in view of Chen et al. (U.S. Patent No. 6,728,752 B1).

Claim 29, Schuter teaches further comprising a monitor facility that, in combination with an automatic clustering facility, minimizes the need of a search engine user to successively refine search terms in a manual fashion" ("minimizes the need" is intended use recitation which does not carry any patentable weight, should be amended to recite "minimizing the number of successful refining by a search engine user in a manual fashion").

Schuter does not teach by monitoring which particular result-items a user has historically chosen to visit.

Chen et al. teaches by monitoring which particular result-items a user has historically chosen to visit (See Chen et al. column 3, lines 30-33, prior art, also see Chen et al. column 6, lines 25-35).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to automatically cluster by monitoring which particular result-items a user has historically chosen to visit because it allows for minimum classification error and maximizing mutual information access (See Chen et al. column 5, lines 26-31).

As to claim 31, Schuter does not teach in which the automatic clustering tool responds to a searcher's data item perusal in a prior session.

Chen et al. teaches in which the automatic clustering tool responds to a searcher's data item perusal in a prior session (See Chen et al. column 3, lines 30-33, prior art, also see Chen et al. column 6, lines 25-35).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to the automatic clustering tool responds to a searcher's data item perusal in a prior session because it allows for minimum classification error and maximizing mutual information access (See Chen et al. column 5, lines 26-31).

As to claim 33, Schuter does not teach in which the automatic clustering tool is responsive to a given data searchers' reviewing activity over a period of time.

Chen et al. teaches in which the automatic clustering tool is responsive to a given data searchers' reviewing activity over a period of time (See Chen et al. column 18, lines 17-25).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to the automatic clustering tool is responsive to a given data searchers' reviewing activity over a period of time because it allows for multiple feature use and collection of disparate type of information for better information classification (See Chen et al. column 4, lines 21-29).

As to claim 35, Schuter does not teach including creating search context for a search session and saving search context from a prior search session to a subsequent search session.

Chen et al. teaches in which the automatic clustering tool is responsive to a given data searcher's reviewing activity over a period of time (See Chen et al. column 3, lines 10-16, prior art, also see Chen et al. column 6, lines 60-66, and see Chen et al. column 25, lines 53-65).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to it the automatic clustering tool is responsive to a given data searcher's reviewing activity over a period of time because it provides users fast interactive access for useful documents (See Chen et al. column 8, lines 16-29).

(10) Response to Argument

Appellant's argument regarding claim 1 that "the characterization of "searchers" and "listers" by the Examiner is inaccurate in light of appellant's specification definition found at paragraph 0021" is not persuasive.

Suchter's invention explicitly teaches in various parts that both the owner (i.e. lister) and the operator (i.e. searcher) have edit access to the categorization system, see column 8, lines 19-34.

In column 9, lines 9-10, Suchter equates the owner with a creator of the directory or an adminsitrator user having the capability to modify and edit the direcotry litstings.

> Assume further that the owner or creator of the custom directory 126 wishes to exclude all adult-oriented content from the custom directory.

While, in column 9, lines 28-34, Suchter teaches that other users (i.e. searchers) or operators have access permissions to modify categories and provide judgments.

> For example, an administrative user can set permissions of other users by designating which users can modify judgements.

Furthermore, an administrator (interpreted to be a first set of user category) is a user that maintains the database which may or may not be hosted by the administrator's employee which in turn can constitute yet another user (interpreted to be a second set of user category). While, the end user constitute a user of the system (interpreted to be a third set of user category).

Appellant's definition of "listers" as provides on the bottom of page 8 of the brief is equivalent to Suchter's owner or creator of the directory; while, Applenat's definiton of "searchers" is simply" third parties...end users who utlitize the CS to access infiraotion or find item"; thus, really no different then Suchter's "operator" (i.e. third party) or "other users" (i.e. end users) both having edit access.

More so, Appellant acknowledges on page 9, that Suchter indeed teaches searches in Figs. 1A and 1B operating client 100. However, the Appellant neglects to acknowledge that Fig, 1B also teaches ADMIN client 116 having access to the directory for editing and modification.

In conclusion, it is maintained that the cited prior art teaches two distinct sets of users have edit access to the categories of the directory structure thus reading on the argued limitation.

Appellant's argument regarding claim 1 that "Suchter does not teach or suggest Appellant's "categorization system" that associates "search terms" defining categories or attributes with items to be found. Suchter does not teach the use of search terms" is not persuasive.

Adding or modifying the category title or the technical subject field (i.e. search term) of Suchter's directory structure (i.e. categorization system) is taught in column 10, lines 65-67:

The Review Category sub-function 214 enables a user to display, re-order, and modify attributes of electronic documents that are classified in a particular category.

Although, Suchter's categorization system is in the format of a visually navigable directory structure; nevertheless, it is clearly searchable by both the operator and the end-user to find information (i.e. search) organized by search categories (i.e. search terms) as shown in Figure 3A. Appellant argues on page 10 of the brief, that the claim language calls for "interactively modify or supplement search terms assigned to items to be found by categorization system" which is interpreted to be just as what Suchter's system allows its users' to do: managing changes to a directory of electronic documents-edits of the directory structure categories and enclosed documents. Suchter's system allows editing and modification of document categories, as well as, supplementing documents, additional categories, additional tags, and groupings by attributes as shown in Figure 3D.

Appellant's acknowledges in the remarks on page 10 of the brief, lines 16-18 that Suchter's directory 114 to be organized according to taxonomy of categories that classify documents by subject matter, technical fields, etc.; yet, the appellant maintains the organization is not done by search term. As previously stated by the Examiner in the Advisory action, "search term" is defined in the art as "terminology is the set of all terms related to a given subject field or discipline (i.e. category or subtitle)" thus no different nor distinct from the cited prior art.

More so, Suchter teaches in various parts search engines which are well known in the art to search using search terms. Appellant's prior response states that Applicant takes exception with Examiner's definition and interpretation of "search terms"; the Examiner maintains the interpretation since there's no claim language to the contrary and there's no support in applicant's disclosure to any given definition other than what can be broadly and reasonably be interpreted

by the Examiner, as covered by Suchter. Again, the Examiner emphasizes that should there be a specific definition or novelty to the "search term"; then it should be clearly stated in the claims.

Appellant's argument regarding claims 29, 31, 33, and 35 that "Chen does not teach or suggest "automatic clustering tool" responding to actions by listers and searches by interactively creating and storing categorization criteria" is not persuasive.

Chen in column 29, lines 15-18 teaches:

> Disk Trees (FIG. 23, described below) can be used to visualize the page and hyperlink topology of a Web site, and have been found advantageous to identify the parts of a site that typically interest various clusters of users. Also, techniques for summarizing the text and URLs that typify the interests of a cluster of users are employed by the invention. By combining such techniques, an analyst can be presented with an identification of the text, topology, and URLs that characterize the interests of an **automatically identified cluster**.

Chen's use of multi-modal algorithm is to clearly assist in automatically forming clusters.

In column 33, lines 61-67, Chen continues to teach that his system after automatically creating clusters; it automatically extracts features used in grouping and organization:

> Multi-modal clustering can also be used for data mining. Once a **cluster of users has been created by the multi-modal algorithm**, one can **automatically** find salient features. For example, based on the textual representation of the HomeCentre cluster in Table 2 which shows "homecentre" as a salient word, one can test how well it is characterized by "homecentre" alone.

While in column 34, lines 27-33, Chen teaches the automatic formation of hierarchical clusters of web pages or documents which users can latter edit thus reading on the argued limitation.

> An increasingly important technique for organizing large collections, including intranets, is hierarchical clustering. The purpose is to automatically generate a hierarchy as it can be found on yahoo (and on many intranets). **Hierarchical multi-modal clustering can be used to generate such a hierarchy automatically** or to give human categorizers a first cut which they can then hand-edit.

Appellant's argument regarding claim 29 that "the ability to successively refine search terms manually adds further patentable features" is not persuasive.

The Examiner has indicated the recitation as not carrying patentable weight not as a rejection but instead as intended use interpretation of the claim language since the benefits or uses of an invention is beyond the scope of the claim. The Examiner has indeed rejected the recitation of "monitoring facility" in the enclosed rejection above.

"minimizing a need to manually add" is clearly not a functionality but a desired goal or expectation of the system thus referenced as intended use.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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May 15, 2007

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